IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

-

WRIT PETITION NO : 12080 of 2004

Between:

Mir Zahid ali Hashmi, S/o. Late Mir Ibrahim Ali Hashmi,
Muslim, R/o. 4-1-298, Troop Bazar, Hyderabad.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad Rep. by its Commissioner,

Hyderabad.
2 The Assistant City Planner, Circle No.VI, M.C.H., Hyderabad.
3 J. Prabhakar, S/o. Ramayya,
R/o. 4-1-174, Troop Bazar, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondents 1 and 2 herein in not taking any action on the representations dated 8-06-2004, 9-06-2004 and 10-06-2004 as illegal arbitrary null and void and for a consequential direction to the Respondents 1 and 2 to take appropriate action against the 3rd respondent herein who is making illegal construction.

Counsel for the Petitioner : MR.M.V.SURESH

Counsel for the Respondents 1 & 2 : SMT.G.JYOTHI KIRAN

Counsel for the Respondent No.3 : None appeared.

The Court made the following :

ORDER:

The complaint of the petitioner is that the 3rd respondent has encroached a 61/2 feet width lane being used as public passage, which is behind the house of the petitioner, H.No.4-1-174, Troop Bazar, Hyderabad, and trying to construct a house therein. He filed a civil suit O.S.No.3659 of 2004 on the file of the III Addl. Junior Civil Judge, City Civil Courts, Hyderabad and obtained a temporary injunction against the 3rd respondent, pending disposal of the suit. Apart from that, he made a representation on 8-6-2004 to respondents 1 and 2 complaining about the illegal encroachment of the Municipal Corporation Road by the 3rd respondent. The main grievance of the petitioner is that the official respondents are not taking any action on the said representation and the 3rd respondent is making illegal constructions by encroaching the municipal corporation road.

Heard the learned counsel for the petitioner and Ms.G.Jyothi Kiran, standing counsel for respondent – Municipal Corporation.

Notwithstanding the fact that the petitioner has obtained an interim injunction against the 3rd respondent in a civil suit, the official respondents are bound to take appropriate action when the public passage is being encroached, more so, when the petitioner has filed a representation in this regard.

In the circumstances, the respondents 1 and 2 are directed to consider the

representation dated 8-6-2004 filed by the petitioner and pass appropriate orders after issuing notice to the interested parties.

The writ petition is accordingly disposed of. No costs.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner, Municipal Corporation of Hyderabad,

Hyderabad.
2 The Assistant City Planner, Circle No.VI, M.C.H., Hyderabad.
3 2CD copies